IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No.977 of 2006 (O&M)
Date of Decision: 26.10.2006

Khushminder Singh ...Petitioner

Vs.

Harbhajan Kaur & Ors. ...Respondents

CORAM Hon'ble Mr.Justice Vinod K.Sharma

Present: Mr.Vikash Mehsempuri, Advocate,
for the petitioner.

Vinod K.Sharma, J. (Oral)

The learned court below has dismissed the application moved by the petitioner under Order 7 Rule 11 of the Code of Civil Procedure (for short the Code).

Learned counsel for the petitioner contended that the plaintiff-respondents had not disclosed the material facts in the case regarding previous litigation and otherwise also had not claimed any interest in the property and therefore, the application moved by the petitioner under Order 7 Rule 11 of the Code ought to have been allowed.

The reading of the order as well as the plaint shows that the plaintiffs have filed a suit in the representative capacity restraining the petitioner herein from encroaching upon the land reserved for common

purposes. The reading of the plaint shows that the plaintiff-respondents had a cause of action to maintain the suit and therefore, the learned Trial Curt was right in rejecting the application moved under Order 7 Rule 11 of the Code as it is the settled law that for the purpose of deciding an application under Order 7 Rule 11 of the Code the Court is only required to look into the plaint and documents attached therewith to form an opinion as to whether cause of action is disclosed. The stand of the defendant taken in the written statement cannot be the basis for rejection of the plaint. Thus, there is, no merit in the revision petition. Accordingly, the same is dismissed in limine.

(Vinod K.Sharma)
Judge

26.10.2006
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